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BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

ORIGINAL
DEPT. OF TRANSPORTATION
DOCKET SECTION

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Joint Application of
UNITED AIR LINES, INC.
and
AIR CANADA
for Approval of and Antitrust Immunity
For an Alliance Expansion Agreement
Under 49 U.S. §§ 41308 and 41309

Docket OST-96-1434 -- 9

COMMENTS OF
THE INTERNATIONAL AIR TRANSPORT ASSOCIATION

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August 2, 1996

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**COMMENTS OF
THE INTERNATIONAL AIR TRANSPORT ASSOCIATION**

The International Air Transport Association ("IATA"), a trade association representing the world's scheduled passenger and cargo air carriers, and an active party in Docket 46928, submits these comments in response to the above-captioned joint application. In that application, the applicants have voluntarily responded to a request for information previously made by the Department in Order 95-9-27 (Sept. 25, 1995) in the context of another joint application including the question: "Discuss whether and to what extent a grant of the application would or should affect the joint applicants' participation in IATA, especially price coordination."^{1/}

^{1/} The joint applicants responded to the question as follows:

(continued...)

IATA has contested the lawfulness of DOT consideration of conditions on participation in IATA tariff coordination in other alliance proceedings and will not burden this record with a reiteration of those views. Rather, IATA incorporates by reference and makes a part hereof its submissions in OST-95-792 (February 6, 1996), OST-96-1116 (May 16, 1996), and OST-95-618 (May 28, and May 31, 1996).

IATA recognizes that the Department limited its grant of immunity to transborder U.S.-Canada markets (which are not within the scope of IATA tariff coordination) in the American/Canadian case. (See discussion at Order 96-5-38, at 22.) Because no "overlapping 'dual' immunity" issue was raised with respect to markets that would be included in IATA tariff coordination, the Department did not impose a condition on the alliance carriers' right to participate in IATA tariff coordination. However, the Department held open the prospect of such a condition if future changes in the U.S.-Canada bilateral agreement "opened"

^{1/}(...continued)

Carriers in alliances, both with and without antitrust immunity, participate in IATA. Fares in the transborder market are not governed by the IATA tariff coordination process. Approval of the joint application should not affect the participation of United or Air Canada in IATA. In American/Canadian, the Department agreed with this analysis and imposed no condition on IATA participation by American and Canadian. (citing to Order 96-5-38 at 22)

fifth/sixth freedom markets thus setting the stage for possible alliance immunity for those markets (assuming, of course, that such markets were also within the scope of IATA tariff coordination).^{2/}

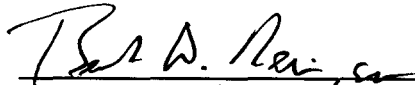
The foregoing notwithstanding, IATA reiterates its basic position that it is legally inappropriate and unfair to the participants in Docket 46928 for the Department to consider alliance-based constraints on carrier participation in tariff coordination in this and other alliance application proceedings. As noted, the reasons for IATA's position have been fully set forth in pleadings incorporated by reference herein and will not be repeated here.

WHEREFORE, for the foregoing reasons, IATA respectfully requests that the Department refrain from considering in this docket the question whether approval of the application should affect the rights of the applicant carriers to participate in

^{2/} The instant applicants have recognized the limitation on alliance immunity in the American/Canadian case and have only asked for equal treatment. Joint Application at 7, n.5.

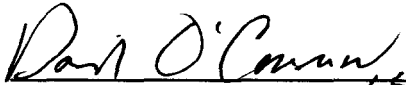
IATA tariff coordination. That question should be addressed, if necessary, with the broader issues in Docket 46928.

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August 2, 1996

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments of the International Air Transport Association has been served by first class mail, postage-prepaid, upon the persons listed below, this 2nd day of August, 1996.

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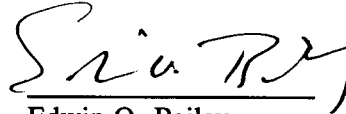
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